

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

D.J.; TONI CORDOVA, et al.	:	
	:	
Plaintiffs,	:	Civil Action No. 2:22-cv-00752-CB
	:	
v.	:	Judge Cathy Bissoon
	:	
UNIVERSITY OF IOWA HOSPITALS AND CLINICS, et al.,	:	
	:	
Defendants.	:	

DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' COMPLAINT

NOW COMES Defendants University of Iowa Hospitals and Clinics, Dr. Ademola Abiose, Duke University Health System, Inc., Columbia University Medical Center, Dr. Maryam Banikazemi, Dr. Manesh Patel, Children's Memorial Hospital (n/k/a Ann & Robert H. Lurie Children's Hospital of Chicago), Dr. Joel Charrow, Baylor College of Medicine, Dr. Christine Eng, Cincinnati Children's Hospital, Dr. Robert Hopkin, University of Minnesota, Dr. Michael Mauer, University of Washington Medicine, Dr. Ronald Scott, Massachusetts General Hospital, Dr. Katherine Sims, University of Alabama at Birmingham Medicine, Dr. David Warnock, Cedars-Sinai Medical Center, and Dr. William Wilcox ("Moving Defendants"), by and through their undersigned counsel, and hereby moves to dismiss Plaintiffs' Complaint, stating as follows:

1. This is a putative class action brought by Plaintiffs or their decedents, who allegedly sustained harm in connection with a shortage of a drug called Fabrazyme that began in 2009 and lasted until 2012.
2. This case is brought against twenty-four Defendants, all out-of-state medical centers ("Medical Center Defendants") or out-of-state current or former physicians ("Physician Defendants") of the Medical Center Defendants. Two defendants are alleged to be in France.

Compl. ¶¶ 39-40. These two defendants do not appear to have been served and have not yet appeared in this action.

3. There are multiple named Plaintiffs in this case. Compl. ¶¶ 1-16. Two named Plaintiffs allege they reside in Pennsylvania. Compl. ¶¶ 4, 9.

4. None of the Defendants are incorporated in, have their principal place of business in, or reside in Pennsylvania. Compl. ¶¶ 17-40.

5. Plaintiffs allege there were two informational letters generated from meetings convened by Genzyme that were sent to “all Fabry patients in the U.S. including all of the named Plaintiffs.” Compl. ¶¶ 83, 86, Exs. A, B. The Moving Defendants are identified as members of a Fabrazyme Working Group (“FSWG”) in those letters along with multiple individuals from Genzyme, but are not alleged to have drafted or sent the letters themselves.

6. On May 21, 2022, Plaintiffs filed a seven-count Class Action Complaint against Defendants including: (1) tort of failure to obtain informed consent; (2) breach of fiduciary duty; (3) violation of 42 U.S.C. § 1981 “Equal Protection under the Law”; (4) violation of 42 U.S.C. § 1983 “Protection of Rights from Those Acting Under Color of Law”; (5) violation of 42 U.S.C. § 1985(3) “Conspiracy to Deprive Rights from Citizens”; (6) violation of 42 U.S.C. § 1986 “Negligent Deprivation of Rights of Citizens”; and (7) violation of “Virginia Wrongful Death (Code of Virginia § 8.01-50) or in the alternative Survival Action Claims (Code of Virginia § 8.01-25).” Compl. ¶¶ 201-310.

7. Through this Motion to Dismiss, Moving Defendants (consisting of all Defendants except the two French Defendants) seek to dismiss all causes of action for lack of

personal jurisdiction. Additionally, Public Entity Defendants¹ seek to dismiss all causes of action against them as barred by 11th Amendment Immunity.

8. The basis for this Motion is set forth at length in Moving Defendants Memorandum in Support of their Motion to Dismiss Plaintiffs' Complaint for Lack of Personal Jurisdiction and Public Entity Defendants' Memorandum in Support of their Motion to Dismiss Plaintiffs' Complaint for Lack of Subject Matter Jurisdiction, which is being filed contemporaneously.

[signatures on following page]

¹ University of Iowa Hospitals and Clinics, Dr. Ademola Abiose, University of Minnesota, Dr. Michael Mauer, University of Washington Medicine, Dr. Ronald Scott, University of Alabama at Birmingham Medicine, and Dr. David Warnock.

Dated: November 8, 2022

Respectfully submitted:

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